

**FILED**

JUN 26 2006

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY [Signature] DEPUTY CLERK

WALTER BROWNING,  
INDIVIDUALLY

CIVIL ACTION NO.

**W06CA181**

VS.

COLONIAL FREIGHT SYSTEMS, INC.  
AND JULIE RENEE COLLINS,  
INDIVIDUALLY

§  
§  
§  
§  
§  
§  
§

(JURY DEMANDED)

**PLAINTIFF'S ORIGINAL COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW, Walter Browning, Individually Plaintiff herein, complaining of  
Colon, Defendants herein, and for her cause of action, would show the Court as follows:

**I. JURISDICTION AND VENUE**

- Venue is proper in the United States District Court for the Western District of Texas pursuant to 28 U.S.C. §1391 (a)(1), (c) in that venue is proper where "any defendant resides" and further that a defendant is "deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the cause of action is commenced." Venue is also proper in this court in that all or a substantial part of the events or omissions giving rise to the claim occurred in the Western District of Texas. 28 U.S.C. §1391 (a)(2).
- Venue is proper in the United States District Court for the Western District of Texas pursuant to 28 U.S.C. 1391(a)(1) and U.S.C. §1391(a)(2).

## **II. PARTIES TO THE COMPLAINT**

### **PLAINTIFF**

3. Walter Baker Browning resides in Forth Worth, Texas and brings suit herein in his individual capacity.

### **DEFENDANTS**

4. Defendant, Colonial Freight Systems, Inc. is a foreign corporation incorporated in the State of Tennessee, having its principal place of business in Tennessee, doing business in the Western District of Texas, and may be served with process by serving it at its principal place of business located at 10924 McBride Lane, Knoxville, Tennessee 37977.

5. Defendant Julie Renee Collins is an individual who may be served with service of process by serving her at her residence 143 Manor Way #G, Louisville, Tennessee 37777.

## **III. BACKGROUND FACTS RELATING TO THE COLLISION MADE THE BASIS OF THIS COMPLAINT**

6. On or about March 1, 2006, Walter Browning was driving a borrowed 2003 Honda Shadow motorcycle southbound on IH 35 in Waco, Texas. Suddenly and without warning a 2006 Volvo tractor-trailer being driven by Julie Renee Collins swerved into the lane where Mr. Browning was traveling, crashing violently into his motorcycle and causing him to lose control of his motorcycle, fall and subsequently be crushed by the tractor-trailer.

7. As a result of the accident Mr. Browning sustained severe injuries, which caused him conscious physical pain and suffering. As a result of the foregoing events, Plaintiff has suffered damages far in excess of the seventy-five thousand dollars (\$75,000.00)

minimum jurisdictional limits of the Federal Courts, which money damages are exclusive of interests and costs.

#### **IV. RESPONDEAT SUPERIOR LIABILITY**

8. At the time of the incident in question, Defendant, Julie Renee Collins was an employee of Colonial Freight Systems, Inc. and was acting within the course and scope of her employment for this company. Therefore, pursuant to the doctrine of Respondeat Superior, Colonial Freight Systems, Inc. is responsible for the negligence and gross neglect of Defendant, Julie Renee Collins.

#### **V. NEGLIGENCE OF DEFENDANT, JULIE RENEE COLLINS**

9. On the occasion in question, Defendant, Julie Renee Collins committed acts of omission and commission which collectively and severally, constituted negligence. Such negligence was a proximate cause of the occurrence in question, the severe injuries and conscious physical pain and suffering of Walter Browning, and the resulting damages for which Defendants are legally responsible.

#### **VI. COLONIAL FREIGHT SYSTEMS, INC.'S NEGLIGENCE**

10. Defendant, Colonial Freight Systems, Inc. committed acts of omission and commission, which collectively and severally constituted negligence. Such negligence was a proximate cause of the occurrence in question, the severe injuries, conscious pain and suffering of Walter Browning, and the resulting damages for which Defendant Colonial Freight Systems, Inc. is legally responsible.

#### **VII. DAMAGES OF PLAINTIFF**

11. Defendant Colonial Freight Systems, Inc. and Defendant Julie Renee Collins were each negligent with regard to the safety and welfare of Plaintiff, and such negligence

was a proximate cause of Plaintiff's injuries and damages. Accordingly, Plaintiff seeks damages for:

- a. Physical pain and mental anguish in the past and future;
- b. Physical impairment in the past and future;
- c. Disfigurement;
- d. Medical expenses in the past and future;
- e. Lost wages; and
- f. Loss of earning capacity.

The damages sought herein are in excess of the minimum jurisdictional limit of this Court.

#### **IX. PRE-JUDGMENT AND POST-JUDGMENT INTEREST**

13. Plaintiffs seek prejudgment and post judgment interest as allowed by law.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants, Colonial Freight Systems, Inc. and Julie Renee Collins be cited to appear and answer herein, that this cause be set down for trial before a jury, and that Plaintiffs have and recover judgment of and from Defendants for actual and exemplary damages in such amount as the evidence may show and the jury may determine to be proper, together with prejudgment interest, post judgment interest, costs of suit, and such other and further relief to which they may show themselves to be justly entitled.

Respectfully submitted,

SICO, WHITE & BRAUGH, L.L.P.

Brantley W. White

900 Frost Bank Plaza

802 N. Carancahua

Corpus Christi, Texas 78470

Phone: (361) 653-3300

Fax: (361) 653-3333

By: 

BRANTLEY W. WHITE

ATTORNEY IN CHARGE

State Bar No. 00789722

Federal Id. No. 22400

ATTORNEYS FOR PLAINTIFF

JS 44 (Rev. 11/04)

## CIVIL COVER SHEET

W06CA181

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

Walter Browning, Individually

(b) County of Residence of First Listed Plaintiff Tarrant  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Brantley W. White (361) 653-3300  
802 N. Carancahua, Suite 900

## DEFENDANTS

Colonial Freight Systems,  
Inc. & Julie R. Collins  
County of Residence of First Listed Defendant State of Tennessee  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |  |   |  |
|--|---|--|
| <input checked="" type="checkbox"/> 1 Citizen of This State<br><br><input type="checkbox"/> 2 Citizen of Another State<br><br><input type="checkbox"/> 3 Citizen or Subject of a Foreign Country | <input type="checkbox"/> 1 Incorporated or Principal Place of Business In This State<br><br><input type="checkbox"/> 2 Incorporated and Principal Place of Business In Another State<br><br><input type="checkbox"/> 3 Foreign Nation | <input type="checkbox"/> 4 PTF<br><br><input type="checkbox"/> 5 DEF<br><br><input type="checkbox"/> 6 DEF |
|--|---|--|

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

## V. ORIGIN

- (Place an "X" in One Box Only)
- ☒ 1 Original Proceeding  
☐ 2 Removed from State Court  
☐ 3 Remanded from Appellate Court  
☐ 4 Reinstated or Reopened  
☐ 5 Transferred from another district (specify)  
☐ 6 Multidistrict Litigation  
☐ 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

## VI. CAUSE OF ACTION

personal injury

Brief description of cause: personal injury

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

6/22/06

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

399675

AMOUNT

\$350.00

APPLYING IFP

JUDGE

MAG. JUDGE

AO82  
(Rev. 4/90)

ORIGINAL

399675

**RECEIPT FOR PAYMENT**  
**UNITED STATES DISTRICT COURT**  
 for the  
**WESTERN DISTRICT OF TEXAS**  
 at Waco, Tx

RECEIVED FROM

Sico, White & Braughler  
802 N. Canon Colina St. #900  
Corpus Christi, Tx 78470

Fund	
6855XX	Deposit Funds
604700	Registry Funds
	General and Special Funds
508800	Immigration Fees
085000	Attorney Admission Fees
086900	Filing Fees
322340	Sale of Publications
322350	Copy Fees
322360	Miscellaneous Fees
143500	Interest
322380	Recoveries of Court Costs
322386	Restitution to U.S. Government
121000	Conscience Fund
129900	Gifts
504100	Crime Victims Fund
613300	Unclaimed Monies
510000	Civil Filing Fee (1/2)
510100	Registry Fee

ACCOUNT	AMOUNT
510000	190 00
086900	60 00
086400	100 00
<b>TOTAL</b>	<b>350.00</b>
Case Number or Other Reference	
<u>W-06-CA-181</u>	

Civil Filing Fee

Walter Browning  
vs.Colonial Freight Systems  
m

\$ Checks and drafts are accepted subject to collection and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn.

031811

DATE	Cash	Check	M.O.	Credit	DEPUTY CLERK:
<u>6-26-2006</u>		<u>X</u>			<u>[Signature]</u>